

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 12, 1998

DIVISION TWO

[illegible]

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Fukuto, J.

B107000 People v. Jackson (Not for Publication)

The judgment is affirmed.

Boren, P.J.

We concur: Fukuto, J.
 Nott, J.

B113534 People (Not for Publication)
v.
Ortiz

The judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

DIVISION TWO (Continued)

B114555 Ayarian (Not for Publication)
v.
Allstate Insurance Company

The summary judgment is reversed. Plaintiff is to recover costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
 Fukuto, J.

B117044 Cloud (Certified for Publication)
v.
Northrup Grumman Corp., et al.

The judgment is reversed. The matter is remanded with instructions to enter an order granting the motion for judgment on the pleadings with leave to amend insofar as the basis for the motion was lack of standing, and to enter an order denying the motion insofar as the basis for the motion was judicial estoppel. The order shall provide a reasonable time in which plaintiff may either secure the bankruptcy trustee's participation in, or abandonment of, plaintiff's claim. Further proceedings to be consistent with this opinion. Plaintiff to recover costs.

Zebrowski, J.

We concur: Boren, P.J.
 Nott, J.

B116892 Baker (Not for Publication)
v.
County of Los Angeles, et al.

The judgment is affirmed.

Boren, P.J.

We concur: Fukuto, J.
Zebrowski, J.

DIVISION FOUR

Court convened at 9:00 A.M.

Present: Vogel (C.S.), P.J., Epstein, J., Curry, J., and V. Guzman, Deputy Clerk.

B114575 People
 v.
 Carlos L.

Merits:

Argued by Harry Zimmerman for appellant and by Carl N. Henry, deputy attorney general for respondent. Cause submitted.

B124599 Elvis P.
 v.
 Superior Court
 (Department of Children's and Family Services, r.p.i.)

Merits:

Argued by Paul Metzger for petitioner and by Judith A. German, deputy county counsel for real party in interest. Cause submitted.

B108520 Hadedda
 v.
 J.R. Ocean Sales Corporation

Merits:

Argued by Carol S. Boyk for appellant Lapeer Collection Association and by Morris S. Getzels for respondent. Cause submitted.

Court in recess.

The Court reconvened at 1:30 P.M.

Present: Vogel (C.S.), P.J., Epstein, J., Hastings, J., Curry, J. and V. Guzman, Deputy Clerk.

DIVISION FOUR (Continued)

B115835 People
 v.
 McKiney

Merits:

Argued by Tracy J. Dressner for appellant and by David A. Wildman, deputy attorney general for respondent. Cause submitted.

B110683 People
 v.
 Cuardo

Merits:

Argued by Joseph N. Sorrentino, deputy district attorney for appellant and by William D. Farber for respondent. Cause submitted.

B110859 Mosebay
 v.
 State Teachers' Retirement System

Merits:

Argued by Edward L. Faunce for appellant and by Janet E. Burns, deputy attorney general for respondent. Cause submitted.

B114612 Rochin
 v.
 Pat Johnson Manufacturing Company, et al.

Merits:

Argued by William K. Pratt for appellant and by Douglas G. Carroll for respondents. Cause submitted.

DIVISION FOUR (Continued)

B121329 Koontz
v.
Johnston

Merits:

Argued by J. Nicholas Cuneo for appellant and by Thomas Paine Dunlap for respondent. Cause submitted.

B113272 Derderian
v.
St. Luke Medical Center

Merits:

Argued by Thomas Kallay for appellants and by Gary S. Mobley for respondent St. Luke Medical Center and by Teri Manko for respondent Baggett. Cause submitted.

Each of the following:

B120519 People v. Gomez
B115158 People v. Anderson
B111310 People v. Bonty
B116268 People v. Feise
B117907 People v. Gibbs
B118864 People v. Schirka
B113891 People v. Sanchez
B117130 People v. Noriega
B121883 D.C.F.S. v. Roy L.
B122062 D.C.F.S. v. Jerry V.
B121522 D.C.F.S. v. Frederick N. and Carolyn O.
B115437 Alszeh v. Home Box Office, et al.
B116995 Ko v. Moon, et al.

Argument waived, cause submitted.

Court Adjourned.

DIVISION FOUR (Continued)

B116971 City of Burbank (Not for Publication)
v.
Burbank-Glendale-Pasadena Airport Authority

The judgment in favor of the Burbank-Glendale-Pasadena Airport Authority is reversed. Burbank is to have its costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
 Curry, J.

B120807 Simpson (Not for Publication)
v.
TIG Insurance Co.

The trial court's order denying arbitration of attorney's fees is affirmed. Sanctions are denied. Respondents are entitled to costs.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

B104610 Creedon (Not for Publication)
v.
Wolflick

The order imposing sanctions is affirmed as to Mr. Rainey on the sole basis that his conduct was the cause of the mistrial, and remanded to the trial court for a determination of the amount of costs attributable to the necessity for a mistrial; as to Mr. Creedon, the order is reversed. Appellants are to have their costs on appeal.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

DIVISION FOUR (Continued)

B121909 Hendricks
v.
Workers Compensation Appeals Board

Filed order denying petition for rehearing.

B106723 People
v.
Brooks

Filed order denying petition for rehearing.

DIVISION FIVE

B119152 Jeremiah Mitchell Martell et al., (Certified for Publication)
v.
Antelope Valley Hospital Medical Center

The judgment is affirmed. Each side to bear its own costs on appeal..

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

B118491 People (Certified for Partial Publication)
v.
Cesar Herrera

The judgment and the abstract of judgment are modified to reflect a four-year unstayed consecutive term for the personal firearm use enhancement. The judgment and abstract of judgment are further modified to reflect presentence credit of 226 days (197 actual, 29 conduct). As modified, the judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

DIVISION FIVE (Continued)

B122958 People (Not for Publication)
v.
Chester Bernard Pugh

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B120390 People (Not for Publication)
v.
Jerry Hawkins

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B116560 Kabbe (Not for Publication)
v.
Kabbe

The order reducing appellant's spousal support to zero is affirmed. Each party to bear its own costs on appeal.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

DIVISION FIVE (Continued)

B125150 CIBC Oppenheimer Corp. (Not for Publication)

v.

Superior Court, Los Angeles County
(Marilynm S. Labrie, r.p.i.)

A peremptory writ shall issue directing respondent court to vacate its order of September 1, 1998, denying petitioner's motion pursuant to Code of Civil Procedure section 170.6 as untimely, and enter a new and different order honoring the peremptory challenge and transferring the case to the Presiding Judge of the Los Angeles Superior court for reassignment. Costs of this proceeding are awarded to petitioner.

Armstrong, J.

We concur: Turner, P.J.
 Godoy Perez, J.

B119176 People
v.
Leroy Levett

Filed order granting petition for rehearing. Cause resubmitted.

DIVISION SIX

B117829 Bloom (Not for Publication)

v.

Southern Pacific Transportation Co.

The judgment is affirmed. Costs are awarded to respondent.

Stone, P.J.

We concur: Gilbert, J.
 Yegan, J.

DIVISION SEVEN

B115812 People
v.
Ford

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B119466 People
v.
Parker

Filed order modifying opinion. Petition for rehearing is denied. (Change in judgment)

B108869 Phillips (Not for Publication)
v.
City of Los Angeles

The judgment is affirmed insofar as it dismissed Phillips' claims for violation of Labor Code section 1102.1, and 42 U.S. Code section 1983, but reversed insofar as it dismissed his FEHA claim, struck punitive damage claims predicated on individual defendants' liability, and awarded attorney fees to City. The case is remanded for further proceedings consistent with this opinion. Each side shall bear its own costs on appeal.

Neal, J.

We concur: Lillie, P.J.
Woods, J.

B111153 People (Not for Publication)
v.
Hooker

The judgment is reversed.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.